IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 13TH NOVEMBER 2007 / 22ND KARTHIKA 1929

OP.No. 37799 of 2002(Y)

PETITIONER:

A. ABDULLA HAJI, S/O. YOUSAF,
KHADHEEJA MANZIL, NALAM VEEDU ROAD,
KASARAGOD DISTRICT.

BY ADV. SRI.A.K.ABDUL AZEEZ

RESPONDENTS:
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1. ADDITIONAL SALES TAX OFFICER,
KASARAGOD DISTRICT.

2. DEPUTY COMMISSIONER, COMMERCIAL
TAXES, KASARAGOD.

3. STATE OF KERALA, REPRESENTED BY ITS
SECRETARY.

BY ADV. SHRI. PRADEEP, GOVERNMENT PLEADER

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 13/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P. NO. 37799/2002

ORDER ON C.M.P. NO. 63799 OF 2002 IN O.P. NO. 37799/2002

DISMISSED.

13/11/2007 SD/ (C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF the OBJECTION FILED BY THE PETITIONER DATED 15/12/1997.

P2 : COPY OF the ASSESSMENT ORDER DATED 16/12/1997.

P3 : COPY OF THE DEMAND NOTICE DATED 20/01/1998.

P4 : COPY OF THE APPEAL PREFERRED BEFORE THE APPELLATE TRIBUNAL DATED 23/08/2000.

P4(a) : COPY OF THE STAY PETITION PREFERRED BEFORE THE APPELLATE TRIBUNAL DATED 23/08/2000.

P5 : COPY OF THE KERALA TAX REPORTER DATED 10/11/99.

P6 : COPY OF the ORDER ISSUED BY THE 2ND RESPONDENT DATED 23/10/2002.

P7 : COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT DATED 29/11/2002.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

O.P. No. 37799 of 2002

Dated, this the 13th day of November, 2007

J U D G M E N T

Petitioner is challenging the assessment based on the ground of limitation. Even though learned counsel for the petitioner relied on a Division Bench decision of this Court, namely Ext.P5, learned Government Pleader pointed out that Ext.P5 judgment stands reversed by the Full Bench in **Assistant Commissioner (Assessment) Vs. Grasim Industries Limited**, reported in 2006 (1) KLT 821. In any case, second appeal filed by the petitioner is pending before the Tribunal. This original petition is disposed of directing the Tribunal to dispose of the appeal, if not already done. If petitioner has any grievance against the order in appeal, he can file revision petition before this Court. So far as, penalty is concerned, I find no justification to interfere with the penalty, which is sustained vide Ext.P6. Nothing more survives in the original petition and it is therefore dismissed.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg